Chapter 3
Protection From Abuse Act
23 Pa. C.S. 6101 et seq.

Short Title of Chapter.
This chapter shall be known and may be cited as the Protection from Abuse Act.

6102. Definitions.

(a) General rule. -- The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Abuse. The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, rape, involuntary deviate sexual assault, statutory sexual assault, aggravated or incest with or without a deadly weapon.
(2) Placing another in reasonable fear of imminent serious bodily injury.
(3) The infliction of false imprisonment pursuant to18 Pa. C.S. 2903 (relating to false imprisonment).
(4) Physically or sexually abusing minor children, including such terms as defined in chapter 63 (relating to child protective services).
(5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper

authority, under circumstances, which place the person in reasonable, fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced until Title 18 (relating to crimes and offenses).

Adult. An individual who is 18 years of age or older.

Confidential communications. All information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship.

Domestic Violence Counselor/Advocate. An individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence who has undergone 40 hours of training.

Domestic Violence Program. A nonprofit organization or program that's primary purpose is to provide services to domestic violence victims, which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and information; transportation; interface and referral; and victim assistance.

Family or household members. Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or formal sexual or intimate partners or persons who share biological parenthood.

Hearing officer. A district justice, judge of the Philadelphia Municipal Court, bail commissioner appointed under 42 Pa. C.S. 1126 (relating to masters).

Minor. An individual who is not an adult.

Secure visitation facility. A court-approved visitation program offered in a facility with trained professional staff operated in a manner that safeguards children and parents from abuse and abduction.

Victim. A person who is physically or sexually abused by a family or household

member. For purposes of section 6116 (relating to confidentiality), a victim is a person against who abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim.

(b) Other terms. -- Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa. C.S. (relating to crimes and offenses).

6103. Effect of departure to avoid abuse.

The court shall have jurisdiction over all proceedings under this chapter. The right of plaintiff to relief under this chapter shall not be affected by the plaintiff leaving the residence or household to avoid further abuse.

6104. Registration of order.

(a) Registry. -- The prothonotary shall maintain a registry in which it shall enter certified copies of orders entered by courts from other jurisdictions in this Commonwealth pursuant to this chapter.

(b) Registration of order in any county. -- A plaintiff who obtains a valid order under this chapter may register that order without fee or cost in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. A court shall recognize and enforce a valid order under this chapter, which has been issued by another court but properly registered with a county within the judicial district of the court where enforcement is sought or recorded in the registry of the Pennsylvania State Police. County registries shall not be required when the Pennsylvania State Police registry provided for in section 6105 (e) (relating to responsibilities of law enforcement agencies) is established and is fully operational. A court shall recognize and enforce a valid order, which has been issued by a comparable court in another state and properly registered within a court where enforcement is sought or recorded in the registry of the Pennsylvania State Police.

(c) Certified copy. -- A valid order under this chapter may be registered by the plaintiff in a county other than the issuing county by obtaining a certified copy of the order of the issuing court endorsed by the prothonotary of that court and ' presenting that certified order to the prothonotary where the order is to be

registered.

(d) Proof of registration. -- Upon receipt of a certified order for registration, the prothonotary shall provide the plaintiff with a copy bearing the proof of registration to be filed with the appropriate law enforcement agency.

(e) Registration not required. -- Registration of orders under this section shall not be required upon the establishment and operation of the Pennsylvania State Police registry provided for in section 6105(e).

6105. Responsibilities of law enforcement agencies.

(a) General rule. -- The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall insure that all there officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies within this Commonwealth shall adopt a written domestic violence policy.

(b) Notice of service and rights. -- Each law enforcement agency shall provide the abused person with oral and written notice of the availability of safe shelter and of domestic violence services in the community, including the hotline number for domestic violence services. The written notice, which shall be in English and Spanish and any additional language required by local rule of court, shall include the following statement:

“If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Protection From Abuse Act (23 Pa. C.S. Ch. 61), which could include the following:

(1) An order restraining the abuser from further acts of abuse.
(2) An order directing the abuser to leave your household.
(3) An order preventing the abuser from entering your residence, school, business or place of employment.
(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(c) Mandatory report. -- Each law enforcement agency shall make an incident report, on a form prescribed by the Pennsylvania State Police consistent with the report required by the Federal National Incident-Based Reporting System (NIBRS). The mandate for incident report completion shall not be operative until the Pennsylvania State Police have implemented NIBRS. The incident report may include the following:

1) Names, addresses and telephone numbers of the victim, the accused, any witnesses and the caller.
2) A second permanent address and telephone number for the victim, such as a close family member or a friend.
3) A statement of the relationship between the victim and the accused.
4) A narrative for the incident, including the date, time and whether the accused appeared intoxicated or under the influence of a controlled substance.
5) What, if any, weapons were used or threatened to be used.
6) A description of any injuries observed by the officer.
7) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.
8) Documentation of any evidence that would tend to establish that a crime was committed.
9) An indication of whether an arrest was made and the reason for electing not to arrest, whether there was a warrant less arrest, an arrest with a warrant or no arrest.
10) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.
11) The crimes with which the accused was charged.
12) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.
13) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.
14) The names and ages of any children present in the household and their address and telephone number if children were relocated.
15) Notation of previous incidents of which the officer is personally aware.
16) Notation of previous incidents reported by the victim or witnesses..
17) If an officer was injured in the incident, the nature and circumstances of the injury.

(d) Notice of arrest. -- All law enforcement agencies shall make reasonable efforts

to notify any adult or emancipated minor protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.

(e) Statewide registry. -

(1) The Pennsylvania State Police shall establish a statewide registry of protection orders and shall maintain a complete and systematic record and index of all valid temporary and final court orders of protection or court-approved consent agreements. The Statewide registry shall include, but need not be limited to, the following:

(i) The names of the plaintiff and any protected parties.
(ii) The name and address of the defendant.
(iii) The date the order was entered.
(iv) The date the order expires.
(v) The relief granted under sections 6108(a)(l), (2), (4), (6) and (7) (relating to emergency relief by minor judiciary).
(vi) The judicial district in which the order was entered.
(vii) Where furnished, the Social Security number and date of birth of the defendant.

(2) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of the protection order or approved consent agreement to the Statewide registry of protection orders so that it is received with 24 hours of the entry of the order. Likewise, amendments to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry of protection orders within eight hours of receipt.

(3) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid protection order involving any defendant.

(f) Information concerning crimes of violence. -- Each police department in a city, borough or township and the Pennsylvania State Police, in a manner prescribed by the Pennsylvania State Police, the information specified in subsection (c) relating to crimes of violence between family and household members.

(g) Annual report. -- The Pennsylvania State Police shall annually compile and analyze the incident report data received and publish a statewide report that includes aggregate, county and department-based statistical profiles. The Pennsylvania State Police shall transmit a copy of the annual report to the Governor, the General Assembly and each domestic violence program in this Commonwealth.

6106. Commencement of proceedings.

(a) General rule. -- An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad may seek relief under this chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa. C.S. Ch. 51 Sum. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

(a.1) False reports. -- A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this chapter commits an offense under 18 Pa. C.S. 4906 (relating to false reports to law enforcement authorities).

(b) No prepayment of fees. -- The petition shall be filed and service shall be made without prepayment of fees.

(c) Assessment of fees and costs. -- If the plaintiff prevails in the action, fees and costs shall be assigned to the defendant, or, should the court determine that the defendant is not able to pay the costs of filing and service, the court shall waive fees and costs. If the plaintiff does not prevail, costs of filing and service may be assigned to the plaintiff or, should the court determine that the plaintiff is not able to pay the costs of filing and service, the court shall waive fees and costs.

(d) Surcharge on order. -- When a protection order is granted under section 6107(a) (relating to hearings), other than pursuant to an agreement of the parties, a surcharge of $25 shall be assessed against the defendant. All moneys received from surcharges shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).

(e) Court to adopt means of service. -- The court shall adopt a means of prompt and effective service in those instances where the plaintiff waivers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.

(f) Service by sheriff. -- If the court so orders, the sheriff or other designated agency or individual shall serve the petition and order.

(g) Service of petition and orders.-- The petition and orders shall be served upon the defendant, and orders shall be served upon the defendant, and orders shall be served upon the police departments with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police. Failure to serve shall not stay the effect of a valid order.

(h) Assistance and advice to plaintiff. -The courts and hearing officers shall:

> (1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for a protection order for an individual not represented by counsel.
>
> (2) Provide the plaintiff with written and oral referrals, in English and Spanish, to the local domestic violence program, to the local legal services office and to the county bar association's lawyer referral service.

6107. Hearings.

(a) General rule. - Within ten days of the filing of a petition under this chapter, **(b) a hearing shall be held before the court,** at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of the right to be represented by counsel.
(c) Temporary orders. -- If a plaintiff petitions for a temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex parte proceeding. The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse. The order shall remain in effect until modified or terminated by the court after notice and hearing. Any order issued under this section shall, where furnished by the plaintiff, specify the Social Security number and date of birth of the defendant.

(d) Continued hearings. - If a hearing under subsection (a) is continued and no temporary order is issued; the court may make ex parte temporary orders under subsection (b) as it deems necessary.

6018. Relief

(a) General rule. -- The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

- Directing the defendant to refrain from abusing the plaintiff or minor children.

- Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

- When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternative housing.

- Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. A defendant shall not be granted custody, partial custody or unsupervised visitation where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant abused the minor children of the parties or where the defendant has been convicted of violating 18 Pa. C.S. 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order. Where the court finds after a hearing under this chapter that the defendant has inflicted abuse upon the plaintiff or a child, the court may require supervised custodial access by a third party. The third party must agree to be accountable to the court for supervision and execute in affidavit of accountability. Where the court finds after a hearing under this chapter that the defendant has inflicted serious abuse upon the plaintiff or a child or poses a risk of abuse toward the plaintiff or a child, the court may award

supervised visitation in a secure visitation facility or may deny the defendant custodial access to a child. If a plaintiff petitions for temporary order under section 6107 (b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107 (a). Where the defendant has forcibly or fraudulently removed any minor child from the care and custody of a plaintiff, the court shall order the return of the child to the plaintiff unless the child would be endangered by restoration to the plaintiff. Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter **53** (relating to custody) or under the Pennsylvania Rules of Civil Procedure. In order to prevent further abuse during periods of access to the plaintiff and child during the exercise of custodial rights, the court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.

- After a hearing in accordance with section 6107 (a), directing the defendant to pay financial support to those persons the defendant has a duty to support, requiring the defendant, under section 4324 (relating to inclusion of medical support) and 4326 (relating to mandatory inclusion of child medical support), to provide health coverage for the minor child and spouse, directing the defendant to pay all of the un-reimbursed medical expenses of a spouse or minor child of the defendant to the provider or to the plaintiff when the or she has paid for the medical treatment, and directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters **43** (relating to support matters generally) and **45** (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

- Prohibiting the defendant from having any contact with the plaintiff or minor children, including, but not limited to restraining the defendant from

entering the place of employment or business or school of the plaintiff or minor children and from harassing the plaintiff or plaintiff's relatives or minor children.

- Ordering the defendant to temporarily relinquish to the sheriff the defendant's weapons, which have been used, or been threatened to be used in an incident of abuse against the plaintiff or the minor children and prohibiting the defendant from acquiring or possessing any other weapons for the duration of the order. The court's order shall provide for the return of the weapons to the defendant subject to any restrictions and conditions as the court shall deem appropriate to protect the plaintiff or minor children from further abuse through the use of weapons.

- Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; costs of repair or replacement of real or personal property damaged, destroyed or taken by the defendant or at the direction of the defendant; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees. An award under this chapter shall not constitute a bar to litigation for civil damages for injuries sustained from the acts of abuse giving rise to the award or a finding of contempt under this chapter.

- Directing the defendant to refrain from stalking or harassing the plaintiff and other designated persons as defined in 18 Pa. C.S. 2709 (relating to harassment and stalking).

- Granting any other appropriate relief sought by the plaintiff.

(b) Identifying information. - Any order issued under this section shall, where furnished by either party, specify the Social Security number and date of birth of the defendant.

(c) Mutual orders of protection. -- Mutual orders of protection shall not be awarded unless both parties have filed timely written petitions, complied with service requirements under section 6106 (relating to commencement of proceedings) and are eligible for protection under this chapter. The court shall make separate findings and, where issuing orders on behalf of both petitioners, enter separate orders.

(d) Duration and amendment of order or agreement. -- A protection order or approved consent agreement shall be for a fixed period of time not to exceed 18 months. The court may amend its order or agreement at anytime upon subsequent petition filed by either party.

(e) Extension of protection orders. --

(1) An extension of a protection order may be granted:

(i) Where the court finds, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 6106 and 6107, that the defendant committed one or more acts of abuse subsequent to the entry of the final order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor child.
(ii) When a contempt petition or charge has been filed, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition.

(2) Service of an extended order shall be made in accordance with section 6109 (relating to service of orders).

(3) There shall be no limitation on the number of extensions that may be granted.

(f) Support procedure. -- The domestic relations section shall enforce any support award in a protection order where the plaintiff files a complaint for support under subsection (a)(5).

(g) Notice .-- Notice shall be given to the defendant, in orders issued under this section, stating that violations of an order will subject the defendant to arrest under section 6113 (relating to arrest for violation of order) or contempt of court under section 6114 (relating to contempt for violation of order or agreement). Resumption of co-residency on the part of the plaintiff and defendant shall not nullify the provisions of the court order.

(h) Title to real property unaffected. -- No order or agreement under this chapter shall in any manner affect title to any real property.

6109. Service of orders.

(a) Issuance. -- A copy of an order under this chapter shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement in accordance with the provisions of this chapter or as ordered by the court or hearing officer.

(b) Placement in registry. -- Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof. County registries shall not be required when the Pennsylvania State Police registry provided for in section 6105(e) (relating to responsibilities of law enforcement agencies) is established and is fully operational.

6110. Emergency relief by minor judiciary.

(a) **General rule.** -- When:

(1) in counties with less than four judges, the court is unavailable:
(i) from the close of business at end of each day to the resumption of business the next morning;(ii) from the end of the business week to the beginning of the business week; and (iii) during the business day by reason of duties outside the county, illness or vacation;

(2) in counties with at least four judges, the court is unavailable:
(i) from the close of business at the end of each day to the resumption of business the next morning; and (ii) from the end of the business week to the beginning of the business week; a petition may be filed before a hearing officer who may grant relief in accordance with section 6108(a)(l), (2) .and (6) or (1) and (6) (relating to relief) if the hearing officer deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an ex parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for the purposes of this subsection.

(b) Expiration of order. -- An order issued under subsection (a) shall expire at the end of the next business day the court deems itself available. The court shall schedule hearings on protection orders entered by hearing officers under subsection (a) and shall review and continue in effect

protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court. -- An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 6106 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the abuse of the defendant at least five days prior to the hearing. Service of the verified statement shall be made subject to section 6106.

(d) Instructions regarding the commencement of proceedings. -- Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court of common pleas at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them.

6111. Domestic violence
Counselor/advocate.

A domestic violence counselor/advocate may accompany a party to any legal proceeding or hearing under this chapter.

6112. Disclosure of addresses.

During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during the proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a domestic violence program. Where the court concludes that the defendant poses a threat of continued danger to the

plaintiff and where the plaintiff requests that his or her address, telephone number and information about whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts (both in which a plaintiffs child in custody of the plaintiff is or has been enrolled) shall not disclose the presence of the plaintiff or the child in the jurisdiction or district or furnish any address, telephone number or any other demographic information. about the plaintiff and child except by further order of the court.

6113. Arrest for violation of order.

(a) General rule. - An arrest for violation of an order issued pursuant to this chapter may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer in circumstances where the defendant has violated a provision of an order consistent with section 6108 (a) (1), (2), (3), (4), (6) OR (7) (relating to relief). The police officer may verify, if necessary the existence of a protection order by telephone or radio communication with the appropriate police department, county registry or issuing authority. A police officer shall arrest a defendant for violating an order issued under this chapter by a court within the judicial district, issued by a court in another judicial district within this Commonwealth or issued by another state and registered pursuant to this chapter or verified through the Pennsylvania State Police registry.

(b) Seizure of weapons. -- Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated weapons to the office of the sheriff. The sheriff shall maintain possession of the weapons until the court issues an order specifying the weapons to be relinquished and the persons to whom the weapons shall be relinquished.

(c) Procedure following arrest. -- Subsequent to an arrest, the defendant shall be taken, by the police officer without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer shall convey the defendant to a

district justice designated as appropriate by local rules of court or, in the city of Pittsburgh Magistrates Court or, in counties of the first class, to the appropriate hearing officer. For purposes of procedures relating to arraignments for arrest for violation of an order issued under this chapter, the judges of Pittsburgh Magistrates Court shall be deemed to be district justices.

(d) Preliminary arraignment. - The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) Other emergency powers unaffected. -- This section shall not be construed or in any way limit any of the other powers for emergency relief provided in this chapter.

(f) Hearing. -- A hearing shall be scheduled within ten days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

6113.1 Private criminal complaints for violation of order or agreement.

(a) General rule. -- A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a non- economic violation of any provision of an order or court approved consent agreement issued under this chapter, with the court, the office of the district attorney or the district justice in the jurisdiction or county where the violation occurred, except that, in a city of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of the district attorney.

(b) Procedure service. -- Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule.

6114. Contempt for violation of order or agreement.

(a) General rule. -- Where the police or the plaintiff have filed charges of indirect criminal contempt against a defendant for violation of a protection order issued under this chapter or a court approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with the law.

(a.1) Jurisdiction. -- A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order in the count where the violation occurred.

(b) Trial and punishment. -- A sentence for contempt under this chapter may include imprisonment up to six months or a fine of not less than $100 not more than $1,000, or both, and may include other relief set forth in this chapter. All moneys received under this section shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies). The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitles to counsel.

(c) Notification upon release. -- The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection.

(d) Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody. The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(e) Multiple remedies. -- Disposition of a charge of indirect criminal of contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

6144.1 Civil contempt or modification for violation of an order or agreement.

(a) General rule. -- A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court approved agreement issued under this chapter.

(b) Civil contempt order. -- Upon finding of a violation of a protechion order or court approved consent agreement issued under this chapter, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain him in accordance with law.

(c) Sentencing. -- A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions in the order or consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel. -- The defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

6145. Reporting abuse and immunity.

(a) Reporting. -- A person having reasonable cause to believe that a person is being abused may report the information to the local police department.

(b) Contents of report. -- The report should contain the name and address of the abused person, information regarding the nature and extent of the abuse and information that the reporter believes may be helpful to prevent further abuse.

(c) Immunity-- A person who makes a report shall be immune from civil or criminal liability on account of the report unless the person acted in bad faith or with malicious purpose.

6146. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate or a co-participant who is present during domestic violence counseling/advocacy shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to the victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter **63** (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

6147. Procedure and other remedies.

Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of an order issued under section 6108 (relating to relief) at any time during the duration of an order. Modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.

6148. Full faith and credit.

(a) General rule.-- Any protection order issued by a court of another state and registered under section 6104 (relating to registration of order) shall be accorded full faith and credit by the court of common pleas of this Commonwealth and enforced as if it were issued in this Commonwealth only if the issuing jurisdiction under the law of the other state at the time of issuance.

(b) Affirmative defense. -- A defendant must have been given reasonable notice and the opportunity to be heard before the order of the other state was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process. Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to enforcement of the registered protection order.

CRIMINAL REMEDIES

SEXUAL OFFENSES

18 PA. C.S.A. Sec. 3121-Sec. 3126

Rape

A person commits a felony of the first degree when he engages in sexual intercourse with another person not his spouse:

(1) by forcible compulsion;
(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(3) who is unconscious; or
(4) who is so mentally deranged or deficient that such person is incapable of consent.

Whenever the term ***rape*** is used in this title or any other title, it is deemed to include spousal sexual assault as further defined in section 3128 (relating to spousal sexual assault).

3121. Statutory Rape

A person who is 18 years of age or older commits statutory rape, a felony of the second degree, when he engages in sexual intercourse with another person not his spouse who is less than 14 years of age.

3122. Involuntary Deviate Sexual Intercourse

A person commits a felony of the first degree when he engages in deviate sexual intercourse with another person:

(1) by forcible compulsion;
(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(3) who is unconscious;
(4) who is so mentally deranged or deficient that such person is incapable of consent or
(5) who is less than 16 years of age.

3123. Voluntary Deviate Sexual Intercourse

A person who engages in deviate sexual intercourse under circumstances not covered by section 3 123 of this title (relating to involuntary deviate sexual intercourse) is guilty of a misdemeanor of the second degree.

3124. Aggravated Indecent Assault

Except as provided in sections 3121 (relating to rape), 3122 (relating to statutory rape) and 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when he engages in penetration, however slight, of the genitals or anus of another with a part of the actor's body for any purpose other than good faith, medical, hygienic or law enforcement procedures if:

(1) he does so without consent of the other person;
(2) he knows that the other person suffers from a mental disease or defect which renders or her incapable of appraising the nature of his or her conduct;
(3) he knows that the other person is unaware that the indecent contact is being committed;
(4) he has substantially impaired the other person's power to appraise or control his or her conduct by administering or employing without the knowledge of the other drugs, intoxicants or other means for the purpose of preventing resistance;
(5) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him; or
(6) he is over 18 years of age and the other person is under 14 years of age.

3125. Indecent Assault

(a) Offense defined-- A person who has indecent contact with another not his spouse, or causes such other to have indecent contact with him, is guilty of indecent assault if:

(1) he does so without the consent of the other person;
(2) he knows that the other person suffers from a mental disease or defect

which renders him or her incapable of appraising the nature of his or her conduct;
(3) he knows that the other person is unaware that an indecent contact is being committed;
(4) he has substantially impaired the other person's power to appraise or control his or her conduct by administering or employing, without the knowledge of the other drugs, intoxicants, or other means for the purpose of preventing resistance;
(5) the other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over him; or
(6) he is over 18 years of age and the other person is under 14 years of age.

(b) Grading -Indecent assault under subsection (a) (6) is a misdemeanor of the first degree. Otherwise, indecent assault is a misdemeanor of the second degree.

3126. Spousal Sexual Assault

(a) Sexual Assault A person commits a felony of the second degree when the person engages in sexual intercourse with that person's spouse:
(1) by forcible compulsion;
(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution; or
(3) who is unconscious.

(b) Involuntary Spousal Deviate Sexual Intercourse - A person commits a felony of the second degree when that person engages in deviate sexual intercourse with that person's spouse:
(1) by forcible compulsion;
(2) by threat of forcible consumption that would prevent resistance by a person of reasonable resolution; or
(3) who is unconscious.

(c) Crime to be reported -The crime of spousal sexual assault shall be personally reported by the victim or her agent to a law enforcement agency having the requisite jurisdiction within 90 days of the commission of the offense.

OFFENSES AGAINST THE FAMILY
18 Pa. C.S.A. 4302

4302. INCEST

A person is guilty of incest, a felony of the second degree, if he knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew, or niece of the whole blood; the relationships referred to in this section-included blood relationships without regard to legitimacy, and relationship of parent and child by adoption.

OFFENSES COMMON TO DOMESTIC VIOLENCE SITUATIONS
18 Pa. C.S.

2701. Simple Assault

(a) ***Offense defined*** - A person is guilty of assault if he:

(1) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another;

(2) negligently causes bodily injury to another with a deadly weapon; or

(3) attempts by physical menace to put another in fear of imminent serious bodily injury.

(b) Grading -Simple assault is a misdemeanor of the second degree unless committed:

(1) in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree; or

(2) against a child under 12 years of age by an adult 21 years of age or older, in which case it is a misdemeanor of the first degree.

2702. Aggravated Assault

(a) ***Offense defined*** - A person is guilty of aggravated assault if he:

(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a police officer, firefighter,

county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole in the performance of duty or to an employee of an agency, company or other entity engaged in public transportation while in the performance of duty;

(3) attempts to cause or intentionally or knowingly causes bodily injury to a police officer, firefighter or county adult probation or parole officer, county juvenile probation or parole officer or an agent of the Pennsylvania Board of Probation and Parole in the performance of duty;

(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon; or

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution, any elementary or secondary by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.

(b) Grading - Aggravated assault under subsection (a) (1) and (2) is a felony of the first degree. Aggravated assault under subsection (a) **(3),** (4) and (5) is a felony of the second degree.

2705. Recklessly Endangering Another Person

A person commits a misdemeanor of the second degree if he recklessly engages in conduct that places or may place another person in danger of death or serious bodily injury.

2706. Terroristic Threats

A person is guilty of a misdemeanor of the first degree if he threatens to commit any crime of violence with intent to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience.

2709. Harassment

A person commits a summary offense when, with intent to harass, annoy or alarm another person;

(1) he strikes, shoves, kicks or otherwise subjects him to physical contact, or attempts or threatens to do the same; or

(2) he engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

2901. Kidnapping

(a) ***Offense Defined*** - A person is guilty of kidnapping if he unlawfully removes another a substantial distance under the circumstances from the place where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following intentions:

(1) To hold for ransom or reward, or as a shield or hostage;

(2) To facilitate commission of an felony or fight thereafter;

(3) To inflict bodily injury on or to terrorize the victim or another;

(4) To interfere with the performance by public officials of any governmental or political function.

(b) ***Grading*** - Kidnapping is a felony of the first degree. A removal or confinement is unlawful within the meaning of this section if it is accomplished by force, threat or deception, or, in the case of a person who is under the age of 14 years or incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.

2902. Unlawful Restraint

A person commits a misdemeanor of the first degree if he knowingly;

(1) restrains another unlawfully in circumstances exposing him to risk of serious bodily injury; or

(2) holds another in a condition of involuntary servitude.

2903. False imprisonment

A person commits a misdemeanor of the second degree if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.

2911. Probable Cause Arrests in Domestic Violence Cases

(a) ***General Rule*** - A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probably cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702 (a) (3), (4) and (5) (relating to aggravated assault) or 2705 (relating to recklessly endangering another person) against his spouse or other person with whom he resides or has formerly resided although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence.

(b) ***Seizure of weapons*** -The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.. .

(c) Notice of Rights - Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: 'If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to 23 Pa. C.S. Ch. 61 (relating to protection from abuse) which could include the following:

(1) an order restraining the abuse from further acts of abuse.
(2) An order directing the abuse to leave your household.
(3) An order preventing the abuser from entering your residence, school, business or place of employment
(4) An order awarding you or the parent temporary custody of or temporary visitation with your child or children
(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

This statute authorizes police officers to make an arrest without witnessing the incident. The officer may have probable cause where he/she can observe recent physical injury or there is some other form of corroborative evidence (i.e. Smashed furniture, etc).

CLASSIFICATION OF CRIMES

Pursuant to 18 Pa.C.S.A. Section 106, below is a listing of classes of offenses based upon the penalties that may be applied to each crime. The penalties are guidelines only and do not necessarily indicate the sentence a person would receive if convicted of a crime.

PRIVATE CRIMINAL COMPLAINTS

Before a complaint attempts to file a criminal complaint, that person should be encouraged to file a formal incident report with the appropriate police department. This provides the police with an opportunity to review the facts and evaluate the case and pursue a police investigation and/or prosecution. however, if the police are unable or unwilling to pursue the matter, the victim may go to the District Justice who has jurisdiction of the area where the crime allegedly occurred.

Cases involving summary offenses may be issued by the district justice without review or approval of the District Attorney. However, in order to bring criminal charges, which are misdemeanors or felonies, the complaint must be approved by the District Attorney. In these cases, the District Justice prepares the papers and forwards the complaint to the DA The victim will be notified by mail of the interview date and time to appear at the District Attorney's office for an interview. The District Attorney may then decide whether to proceed with criminal charges.

Victims should be reminded that filing a criminal complaint against another person is a serious matter. Charges brought without probable cause or those filed for malicious reasons could result in legal consequences for which the victim may be answerable.

Module 9 – Reading 2

Effective Advocacy on Behalf of Battered Women

By Loretta M. Frederick

Introduction

Advocacy on behalf of battered women whether by an attorney or lay advocate, can take many forms and must be undertaken in a manner responsive to the unique nature of the problem of violence. The considerations are similar, whether the advocate is one whose primary purpose is advocacy or on the other hand, the advocacy takes place in the context of the provision of other types of assistance to the victim or perpetrator. There can be limitations on the type of advocacy provided to battered women. For example, lay advocates are prohibited from engaging in the practice of law and attorneys are usually not in a position to provide the full range of non-legal advocacy services. In any event the basic principles for such advocacy are constant.

These materials us the term "battered women" when referring to domestic violence victims. This terminology does not deny the existence of the male who is assaulted by his female partner nor does it ignore the reality that there are gay male victims of domestic violence perpetrated against them by their partners. It does reflect the fact that upwards of 95% of domestic violence victims are women battered by their male partners and that some battered women are lesbians battered by their female partners.

Characteristics of a battering relationship and how they impact on battered women's advocacy needs

Battering is a multi-faceted pattern of control, punctuated and buttressed by physical violence. It is not an isolated physical assault, nor even a series of assaults. Battered women nearly always experience many forms of violent and other controlling behavior by the batterer. Taken together, these acts cause the woman's life, or parts thereof, to be subject to her abuser's whim or desire. Accordingly, she is forced to negotiate for her daily needs in a climate of fear of everything from assaults to insults. And she is used to trying to predict the abuser's reaction to her every move, word, desire and thought in order to avoid the violence which may follow any assertions of independence.

She is usually being pressured, threatened, or cajoled by the abuser, the abuser's family, and maybe her own family or children to reconcile, forgive and forget. She has been raised to believe that the success or failure of her relationship is a reflection of her worth as a woman; the battering is characterized as her failure to maintain the relationship. As she contemplates life apart from the abuser, she usually finds herself contemplating poverty or at least a dramatic drop in her standard of living. She may

not even know the status of the family finances. She is usually afraid of losing custody of the children to the abuser, a person more likely to have the financial and other resources necessary to winning the battle. She may be facing child protection problems relating to her "failure to protect the children." She may fear that she or the children or her parents will be hurt or killed—as has been threatened—if she terminates the relationship or challenges the abuser's control in other ways. She could also fear losing jobs or housing as a result of the abuser's constant harassment at those places.

And she may have discovered that she cannot rely on "the systems", such as law enforcement, child protection or the courts, to protect her or to treat her fairly and without class, race, gender and other biases. Meanwhile, the abuser is turning up the frequency and intensity of controlling techniques, including violence, as his control is threatened by her assertions of independence.

The results of this reality are many and each has an impact on which approach to advocacy for the battered woman is most appropriate. She may seem reluctant to take positions in opposition to the abuser's; she may express a desire to "fold" on every issue (e.g. child support, property division, visitation, etc.) in order to get child custody. She may reconcile or decide to dismiss her Order for Protection or dissolution action. She may simple have difficulty viewing her own interests as distinct from that of the abuser.

She may have trouble distinguishing any violent incident from the rest, remembering dates or details, and she may minimize the abuse that has occurred. She may be experiencing depression, anxiety and other problems which are circumstantial in origin. As such, she may be having trouble caring for others, such as the children.

Such a woman needs safety and support. She also needs to have the perception and the reality of strong, sensitive advocacy on her behalf.

Advocacy principles as applied to working with battered women

1. Give her credit for being in the best position to evaluate the risks of separation from the abuser. Let her do things at her own speed, but offer resources which will make her evaluation process an informed one.
2. Explain all options, especially legal ones, in clear language. Check for comprehension and for questions she may have.
3. Communicate to her that you are afraid for her safety and that of her children, if you are, and take the violence and threats (including potential lethality) very seriously.
4. Gather, know about, and provide to her a list of resources for her to access. These include lay advocacy programs, support groups, legal advice and representation, pro se remedies such as Orders for Protection, and criminal remedies. Meet the other people who she is being referred to; being able to refer to someone you know increases the usefulness of the referral.

5. Reiterate whenever appropriate the fact that she is not responsible for the abuser's behavior and that the violence is not appropriate.
6. Be aggressive, not conciliatory, in your dealings with the other party or his advocate. Studies show such an aggressive approach actually decreases the likelihood of post-separation abuse.
7. Don't refer to a mental health professional unless you have spoken with her/him first, made sure that they are very familiar with battering as an issue, and discuss the dangers of inappropriate diagnoses or record keeping which can cost a woman custody of her children in subsequent litigation.
8. Remember that she may view you as just another part of "the system", distrust you and disbelieve you. Don't take it personally or get defensive. Acknowledge it, ask her to directly question you in the event that she feels confused about your loyalties or your ability to do something for her. Don't promise things you can't get her.
9. Remember that the criminal justice system is susceptible to pressure. Ask police to watch her house if that is necessary. Ask prosecutors why a case is being dismissed. Ask why charges which aren't reflective of the severity of the assault, are not more appropriately charged. Encourage the woman to report all crimes; encourage participation in the criminal justice process, without guilting her to do something she doesn't see any benefit in doing.
10. Don't assume the Order for Protection process will work for her, that she will get treated appropriately, that the relief she gets will be helpful, or that she doesn't need an attorney or advocate at the hearing. Many women fall through the cracks as they try to negotiate the complexities of the court system alone.
11. Delay the resolution of such problems as child custody contests if delay allows her the time to regain her strength and parenting abilities.
12. Advocate forcefully for adequate financial support to allow her to make it on her own – whether it is from the state (public assistance) or from the other party.
13. Remember that joint custody situations and ill-defined 'reasonable visitation' schedules encourage more inter-parental contact and give the abuser more opportunities to harass or assault the woman. Neither is good for children in these cases.
14. Explain alternative dispute resolution methods clearly, including the potential dangers of mediation. Advocate for her choice in this matter, regardless of whether her choice is one you would like to see her make.
15. Try not to get impatient with her. It's her life and she knows what she has to do better than anyone else.

16. Elicit information about the abuse in a sensitive, supportive, affirming manner. Don't ask if she has been "battered" or "abused". Ask about specific acts, starting with less severe forms of violence like shoving or pushing and moving to more serious acts, including death threats and sexual assaults.
17. Generally, don't encourage her to agree to court orders that confuse the issue of who is accountable for the abuse, such as mutual restraining orders.

Finally, advocates must bear in mind that each woman is the victim of this type of abuse primarily because she is a woman, that the culture effectively supports the right to control women, and that the barriers to her freedom are many. **Be not surprised if she isn't able to free herself this time; be delighted and amazed when she does.**

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Battered Women's Justice Project, 1 800 903-0111, Criminal Justice Issues – ext. #1; Civil Justice Issues – ext. #2; Defense Issues – ext. #3 www.bwjp.org/documents/advocacy

Module 9 – Reading 8

Advocacy Wheel

EMPOWERMENT
RESPECT CONFIDENTIALITY ...
All discussion must occur in private, without other family members present. This is essential to building trust and ensuring her safety.
BELIEVE AND VALIDATE HER EXPERIENCES ...
Listen to her and believe her. Acknowledge her feelings and let her know she is not alone. Many women have similar experiences.
ACKNOWLEDGE THE INJUSTICE ...
The violence perpetrated against her is not her fault. No one deserves to be abused.
RESPECT HER AUTONOMY ...
Respect her right to make decisions in her own life, when she is ready. She is the expert on her own life.
HELP HER PLAN FOR FUTURE SAFETY ...
What has she tried in the past to keep herself safe? Is it working? Does she have a place to go if she needs to escape?
PROMOTE ACCESS TO COMMUNITY SERVICES ...
Know the resources in your community. Is there a hotline or a shelter for battered women?
ADVOCACY
EMPOWERMENT

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Produced and distributed by:

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Module 9 – Reading 7

Basic Bill of Rights for Crime Victims

(71 Pa.C.S. §180-9.3)

Victims of crime have the following statutory rights:

- To receive basic information about crime victims' services
- To be notified of certain actions and proceedings about their criminal case
- To be accompanied at all public criminal proceedings by a family member, victim advocate, or another person
- In certain cases, to submit prior comment to the prosecutor on potential reduction or dropping of charges or changes in pleas
- To have opportunity to offer prior comment on a defendant's sentencing through the submission of a victim impact statement (pre-sentence report) describing the effects of the crime on the victim and her family
- To be restored, as much as possible, to her economic status before the crime through restitution, compensation, and the return of property seized and used as evidence
- In personal injury cases and in cases in which the defendant is subject to a PFA order, to receive notice of the defendant's date of release or into any alternative placement, the release of the defendant on bail, and the defendant's escape
- To have assistance in the preparation and submission of financial assistance claims to the Crime Victim's Compensation Board

STALKING

Stalking is when a person engages in a course of conduct or repeatedly commits act toward another which demonstrate either of the following:

- An intent to place the person in reasonable fear of bodily injury

or

- An intent to cause substantial emotional distress to the person.

Some examples are: repeatedly following you, constantly driving by your residence, and showing up at your daily activities.

A victim of stalking **MAY** be eligible for a Protection from Abuse Order if they meet the relationship criteria, i.e. husband, ex partner etc. In addition, in getting PFA's for stalking, it is helpful if there has been some history of abuse in addition to the stalking.

Safety is an important issue for a victim of stalking. Some important safety precautions include:

- Tell the stalker "NO" once and only once and never give them the benefit of a reaction again.
- Get a cell phone. The Women's Center offers 911 phones if needed. Keep the phone with you at all times.

- Obtain a whistle. A whistle blowing is more apt to get a passerby's attention than screaming, "help".
- Document everything. More info on this follows.
- If stalker is calling you excessively, don't change your phone number. Instead get a new unlisted number and only give out when necessary. Hook up an answering machine to the old number. Stalker will think that you are getting all contacts. Listen to messages periodically to make sure they are not threatening.
- Keep all messages, notes, cards, and gifts.

DOCUMENTATION

In a stalking situation, documentation is critical. Encourage all victims of stalking to maintain a journal of all contacts from the stalker. Important information to include is date, time, location, any witnesses and what transpired.

For example: Tuesday, June 10, 2003 – 10:08 pm – my house. Called and left message on machine that I better take his calls.

In addition, save the message. When documenting all incidences, it is important to **NOT** skip any lines in the journal. When police are reviewing the journal if some spare lines are present it makes it look like you have gone back and added things. Appears less legitimate. It is also a good idea to occasionally use a different colored pen. This makes the journal appear more legitimate, like you didn't sit down and write it all at once.

It is very important to document all incidences of stalking. It is quite difficult to attempt to remember all the details.

Although the Pennsylvania "Anti-Stalking" law has been around since 1993, it is still difficult to get an arrest under it. This leads to great frustration on behalf of the stalking victim. We should continue to encourage all victims to seek the help of law enforcement again and again.

The Women's Center, Inc. in an effort to decrease the frustration of the victim and law enforcement developed **"Anti-Stalking Kits**." These kits are available through our Legal Department and are a useful tool to help victims ***"build their own case."*** Stalking is an issue often not taken seriously by law

enforcement; it requires the victim to be diligent in documentation so the police can see a clear pattern.

The Anti-Stalking Kits are funded through a grant from the First Federal Charitable Foundation. The kits include:

- Journal
- 2 pens, different colored ink
- Disposable camera
- Evidence bags
- Sterile gloves
- Whistle
- Helpful hints on safety and documentation

Anyone needing additional information on Stalking or a Kit can contact the legal department.